

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

ORIGINAL

In the Matter of the License of:)
)
CAROL A. BARTHOLOMEW,)
License No. LRA-328,)
)
Respondent.)
)

Case No. REA-L3-01-00-015

**STIPULATION AND
CONSENT ORDER**

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WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Carol A. Bartholomew (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraisals in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Carol A. Bartholomew was licensed by the Idaho State Board of Real Estate Appraisers under License No. LRA-328 on March 15, 1999, to engage in the practice of real estate appraisals. Respondent's continued right to licensure is subject to Respondent's compliance with the laws of the Board codified at title 54, chapter 41, Idaho Code, and the rules of the Board, promulgated at IDAPA 24.18.01.

3. Appraisals in the State of Idaho must comply with the minimum standards set forth in the Uniform Standards of Professional Appraisal Practices ("USPAP").

4. On or about November 10, 1999, Respondent prepared an appraisal for the property located at 313 Mullan Avenue in Kellogg, Idaho (hereinafter the "Subject Property"). The Subject Property is located within a 21-square-mile area known as the Bunker Hill Superfund Project which was established for lead contamination cleanup (hereinafter the "Superfund site"). Portions of the Subject Property that tested above 1000 parts per million lead were remediated in 1997, and a 12-inch soil barrier was installed.

5. Respondent's appraisal of the Subject Property failed to meet the following requirements of USPAP Standards (1999):

a. Respondent failed to mention or discuss in the appraisal report that the Subject Property is within the Superfund site, and what effect, if any, that had on the value of the property, in violation of Standards Rules 1-1(b), 1-2(e)(iv), and 1-3(a).

b. Respondent failed to identify and discuss the effect, if any, in the appraisal report of the fact that two of the comparable sales used in the appraisal report were within the original 7 x 3 mile designated Superfund site, and that the other two comparable sales, while in an area designated for testing and remediation, were outside of the original 7 x 3 mile Superfund site, in violation of Standards Rule 1-1(b).

6. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of real estate appraisals, specifically Idaho Code Idaho Code § 54-4107(1)(e) and IDAPA 24.18.01.700. Violations of these laws and rules would further constitute grounds for disciplinary action against Respondent's license to practice real estate appraisals in the State of Idaho.

7. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against her license as set forth in Section C below.

B.

I, Carol A. Bartholomew, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice real estate appraisals in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraisals in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent shall pay to the Board an administrative fine in the amount of Five Hundred and No/100 Dollars (\$500.00) within thirty (30) days of the entry of the Board's Order.

2. Respondent shall pay investigative costs and attorney fees in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) within thirty (30) days of the entry of the Board's Order.

3. Respondent's License No. LRA-328 shall be placed on probation for a period of three (3) months. The conditions of probation are as follows:

a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraisals in the State of Idaho.

b. The Board reserves the right to audit Respondent's appraisal files upon request. Respondent shall prepare and submit logs of the appraisals performed on a

monthly basis. The appraisal logs shall be forwarded to the Bureau of Occupational Licenses, 1109 Main Street, Suite 220, Boise, Idaho 83702, by the last day of each month. The appropriate form to use is attached hereto as Exhibit A.

c. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

d. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

e. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

f. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

4. At the conclusion of the 3-month probationary period, Respondent may request from the Board reinstatement of License No. LRA-328 without further restriction. Any request for reinstatement must be accompanied by written proof of compliance with the terms of this Stipulation. The Board retains discretion to grant reinstatement of Respondent's real estate appraisal license or to deny reinstatement and continue the period of probation.

5. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

6. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and

charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, Idaho Code §§ 9-337-50.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If

the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 20 day of July, 2001.

Carol A. Bartholomew
Carol A. Bartholomew
Respondent

I concur in this stipulation and order.

DATED this 23 day of July, 2001.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Kirsten L. Wallace
Kirsten L. Wallace
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 24 day of July, 2001. IT IS SO ORDERED.

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By R. Doyle Pugmire
R. Doyle Pugmire, Chair

CERTIFICATE OF SERVICE

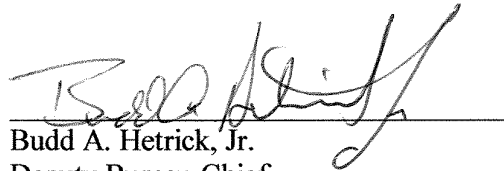
I HEREBY CERTIFY that on this 24th day of July, 2001, I caused to be served a true and correct copy of the foregoing by the following method to:

Carol A. Bartholomew
4301 N. Ramsey Road, #E-107
Coeur d'Alene, Idaho 83814

☒ U.S. Mail, postage prepaid
☐ Certified U.S. Mail, return receipt
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile: _____
☐ Statehouse Mail

Kirsten L. Wallace
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail, postage prepaid
☐ Certified U.S. Mail, return receipt
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile: _____
☒ Statehouse Mail


Budd A. Hetrick, Jr.
Deputy Bureau Chief
Bureau of Occupational Licenses